

BdV (German member of Better Finance, Brussels),

July 2021

**Comments on IRSG questionnaire for the forthcoming
EIOPA 2021 Consumer Trends Report**

Background by EIOPA

EIOPA is required under its Regulation to collect, analyse and report on consumer trends¹. To date, EIOPA has produced nine Consumer Trends Reports. The term 'consumer trend' is not defined in EIOPA's Regulation. EIOPA therefore devised the following working definition:

"Evolutions in consumer behaviour in the insurance and pensions markets related to the relationship between consumers and undertakings (including intermediaries) that are significant in their impact or novelty"

The term 'trends' is understood in a broad sense: it covers, for example, evolutions in volumes of business or in the relationship between customers and undertakings/intermediaries, as well as the emergence of new products or services, or other linked financial innovations. The trend may already be consolidated for a number of years, but it may also be only emergent, with the possibility of becoming significant in the future.

The report aims to inform EIOPA in the identification, prioritisation and development of targeted policy proposals or issues requiring supervisory measures. EIOPA seeks to identify possible consumer protection issues arising from identified trends. Nevertheless, positive developments are also identified and highlighted.

For the development of Consumer Trends Report, EIOPA follows an agreed upon methodology, which includes collecting inputs from stakeholders.

The deadline to provide input is **Friday 16 July 2021**.

¹ Article 9(1)(a) of the Regulation 1094/2010 establishing EIOPA

Top 3 risks and positive developments observed in the market

Note: The wording 'first', 'second', and 'third', is not meant to rank the top 3 issues.

Consumer Protection Issue 1

Better Finance (Germany):

In May 2021 two independent studies were published on contract conclusion procedures by insurers of professional disability due to illness ("Berufsunfähigkeit") for those customers who had overcome a corona virus infection. These studies criticized that the contract conclusion for these former patients were overly delayed (up to one year).

Sources:

<https://www.finanztip.de/presse/pm-schwere-corona-infektion-verhindert-versicherungsschutz/>

<https://www.premiumcircle.de/qti-2021-covid-19-erhoeht-risiko-der-leistungsablehnung/>

Some insurers, brokers and even the *Association of German Insurers (GDV PR of 14 May 2021)* reacted against the results of these studies by insisting that illness due to the pandemic is not a general reason to prevent from concluding a professional disability contract. From the consumer's perspective the conclusion is that Covid-long term illness effects belong to those diseases which insurers deal in a very "prudential" or even unpredictable way with regard to individual contract conclusion. Of course prospective policyholders have the legal obligation to respond to all pre-contractual questions on their prior diseases in a truthful way.

Consumer Protection Issue 2

Better Finance (Germany):

There was at least one case discussed in the media in which a tied agent made advertisement for disability insurance by accident including possible illness due to vaccination against the corona virus. This kind of advertisement was strongly criticized for using possible fears with regard to the public vaccination campaign. The insurer of this agent apologized, and this kind of advertisement was put to an end quickly. Usually disability due to vaccination ("Impfschadenschutz") is not included in these contracts.

Source:

<https://www.procontra-online.de/artikel/date/2021/01/impfschaeden-vertreter-muss-nach-werbekampagne-zurueckrudern/>

Consumer Protection Issue 3

Better Finance (Germany):

Following to an analysis of *Assekurata* (rating agency in Cologne) the entire non-life sector (mainly private liability, home content, housing, legal expenses and accident) strongly increased their returns due to lockdown measures in 2020.

The combined ratio fell from 92,8% (2019) to 90% (2020), the average from 2010 to 2020 was at 95,7%. In consequence the insured losses fell from 53,3 bn Euro (2019) to 52 bn Euro (2020), and the technical gains alone increased from 5,2 bn Euro (2019) to 7,4 bn Euro (2020). This excellent result was achieved even by a slower increase of GWP (2,1% in 2020 in comparison to an annual average increase of 2,9% in the 2010s). In 2021 Assekurata expects ongoing excellent results, even if pandemic lockdown measures will slowly be abolished.

Sources:

<https://www.assekurata.de/presse/pressemitteilungen/detail/assekurata-marktausblick-zur-schaden-unfallversicherung-2021/>

<https://www.bocquel-news.de/Assekurata-Beitr%C3%A4ge-sinken-bei-Kfz-Versicherung.40900.php>

From consumers perspective there is the concern, if some of these insurance branches are more or less "cash cows", do distributors fulfil their information duties correctly (adequate insured losses) or is the calculation of premiums "over"-prudential? Only the line of legal expenses may run into a negative combined ration due a strong increase of labour disputes (short-time work, unemployment etc.) caused by the corona crisis.

Source:

<https://www.versicherungsbote.de/id/4900425/Rechtsschutzversicherung-2021-wird-ein-Schaden-Tsunami-fur-die-Branche/>

Top 3 Initiatives Observed

Note: The wording 'first', 'second', and 'third', is not meant to rank the top 3 initiatives.

Initiative 1

Better Finance (Germany):

In May 2021 a new cap of commissions for payment protection insurance was introduced by law based on a market research by the NCA *BaFin* (cf. below on PPI). The new cap limits the commissions up to 2,5% of the amount of the credit. This was strongly criticized by the *German Association of Insured (BdV)* arguing that this cap is still much too high, only 2,5 *per thousand* being appropriate (PR of 19 April 2021).

<https://www.bunddersicherten.de/presse-und-oeffentlichkeitsarbeit/pressemitteilungen/regierung-will-hohe-provisionen-fuer-restschuldversicherungen-festschreiben>

Additionally the *German Association of Insured (BdV)* criticized the government for not having introduced a generalised cap of commissions for all insurance-based investment products or life-insurances.

Initiative 2

Better Finance (Germany):

On 28 January 2021 The Local Court of Munich (*Landgericht*) took a not yet final decision against *Dialog* Life-Insurer and in favour of the German Association of Insured (*BdV*). The court decided against the use of some "non-transparent" contract clauses of its "Vitality" tariff which is a professional disability due to illness ("Berufsunfähigkeit") by this life-insurer. *BdV* had argued that these contract clauses were not precise enough with regard to the criteria following to which a policy holder could obtain a reduction of his premiums by a continuous "healthy behaviour" ("gesundheitsbewusstes Verhalten"). Additionally it had not been clarified that the reductions of premiums are only possible, if the life-insurer achieves surplus in this tariff.

BdV PR of 4 Februar 2021:

<https://www.bunddersicherten.de/presse-und-oeffentlichkeitsarbeit/pressemitteilungen/bdv-legt-fitness-tarif-der-general-li-lahm>

Initiative 3

Better Finance (Germany):

In February 2021 the *German Actuarial Association (DAV)* published a study justifying the forthcoming reduction of the guaranteed minimum interest rate for life-insurers and IORPs by the legislator. It argued that - under the ongoing conditions of low or zero interest rates - strongly reduced or even no guarantees could increase the return of long-term pension plans. Only by reducing or completely abolishing the capital guarantees the returns will be high enough to cover the costs.

https://aktuar.de/unsere-themen/fachgrundsaeetze-oeffentlich/2021-02-26_DAV-IVS-Ergebnisbericht_Garantien_bAV.pdf

These conclusions were criticized by the *German Association of Insured (BdV)* by stressing that first the costs of distribution, of administration and of investment have substantially to be reduced by the product providers (public position paper of 31 March 2021 on website). Nevertheless the legislator followed the proposals of the actuaries: now the highest level of interest rates guaranteed for the entire contract duration by life-insurers and IORPs (under the Solvency II-regime) is at 0,25%.

<https://www.bunddersicherten.de/files/stellungnahme/pdf/de/2021-03-31-bdv-stellungnahme-hochrechnungszins.pdf>

Product related trends

Product categories	Developments in demand / offer / financial innovations / market environment /market practices / consumer protection
Life insurance - with profit	<p>Better Finance (Germany):</p> <p>Following to the annual analysis of life-insurances with profit participation by <i>Assekurata</i> (rating agency in Cologne) the average interest rate of profit participation for all life products and all tariffs decreased from 2,74% in 2020 to 2,65% in 2021 (but only for investment part of the premium). Even though life-contracts with classical guarantees represented in 2020 only 14% of new business, the average guaranteed minimum interested rate still is at 2,63% due to former business with higher guarantees. This percentage is reduced to 1,59% by the mandatory contributions of the life-insurers to the "Additional Capital Reserve" ("Zinszusatzreserve") since 2011. <i>Assekurata</i> stresses that even this percentage has to be considered as "high" under the conditions of zero or negative interest rates especially for German government bonds.</p> <p>In consequence the development towards product diversification is strengthened, and <i>Assekurata</i> concludes: "There is no market standard anymore", which make advice by intermediaries and decisions by customers ever more difficult.</p> <p>Sources: VersicherungsJournal vom 10. Februar 2021</p> <p>Website of <i>Assekurata</i> (Studie zu Lebensversicherungen): https://www.assekurata.de/publikationen/studien/detail/assekurata-marktstudie-zu-ueberschussbeteiligungen-und-garantien-2021/</p>
Life insurance - unit linked	<p>Better Finance (Germany):</p> <p>Following to <i>Assekurata</i> analysis in February 2021 (cf. our comment above) life-insurances with reduced guarantees ("new classic") had to decrease their guaranteed benefits as well (in average from 2,28% to 2,13%) but the total benefits are still at 2,83% in average.</p> <p>Source: Fonds Professionell online vom 10. Februar 2021 https://www.fondsprofessionell.de/news/maerkte/headline/studie-lv-kunden-haben-wenig-zu-lachen-204513/</p>

Mortgage life insurance	
Other life insurance (please explain)	<p>Better Finance (Germany):</p> <p>Following to a research done by an online-broker for term life-insurances (pure death risk coverage) the average insured sum increased from 190.000 Euro (in 2019) to 205.000 Euro in 2020. But this temporary increase was limited to persons from professions with rather high income (professors, engineers, IT-specialists, banking employees, etc.) or with high pandemic infection risks (mainly physicians, policemen, sales personal or teachers).</p> <p>Source: <i>VersicherungsJournal</i> vom 27. April 2021.</p>
Payment Protection Insurance	<p>Better Finance (Germany):</p> <p>The NCA <i>BaFin</i> published in September 2020 the results of its second market research on the distribution practices of PPI. Three issues had strongly to be criticized:</p> <ol style="list-style-type: none"> 1. The insurers often do not respect their information duties towards the customers: one week after the contract conclusion the insurers have to send an information on the right of withdrawal to the customers, but this information resemble often "welcome letters" and do not stress the possibility of contract withdrawal. 2. Additional the risk coverage is often not exactly outlined (death, dread disease, accident, short-time work, unemployment, divorce, etc.) and may mis-lead customers. 3. 22 percent of the customers indicated that they were not informed about the distribution costs of the contract. BaFin stressed that distribution costs are still extremely high (up to 50% of the total premium, in some cases even 70%, paid to bank distributors). <p>https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2020/meldung_2020_09_01_Marktuntersuchung_Restschuldversicherung.html</p> <p>A precise example of the included costs of PPI by <i>Targo</i> is published on the website of BdV (PR of 26 March 2021):</p> <p>https://www.bunddersicherten.de/presse-und-oeffentlichkeitsarbeit/pressemitteilungen/bdv-negativpreis-geht-an-die-targo-lebensversicherung-ag</p>
Motor insurance	<p>Better Finance (Germany):</p> <p>Following to the analysis by the reinsurer <i>General Reinsurance</i> (Cologne) published in May 2021 due to the lockdown measures against the pandemic the combined ratio of motor insurance fell</p>

	<p>from 98,4% (2019) to 87,5% (2020). In consequence the German motor insurers had an additional technical gain of 3,6 bn Euro in 2020 (and probably about 2,2 bn Euro in 2021), not included any gains from their asset allocations. Nevertheless premiums decreased only by 1,3% in average, one third of tariffs had even an increase of premiums.</p> <p>But there was no general shift to the partial reimbursement of premiums (only two motor insurers made an automatic reimbursement for all their contracts). In most cases the policyholders had to ask in own initiative (based on less kilometres driven) for a reduction of current premiums being calculated only from the date of the request on.</p> <p>Source: <i>Versicherungsmagazin</i>, 15. April and 5. Mai 2021 (Author: Uwe Schmidt-Kasperek)</p> <p>https://www.versicherungsmagazin.de/rubriken/branche/autoversicherer-behalten-milliarden-corona-gewinne-2886116.html?utm_medium=email&%E2%80%A6</p>
Household insurance	
Accident and Health insurance	<p>Better Finance (Germany):</p> <p>In December 2020 the <i>German Federal Court of Justice</i> took a fundamental decision with regard to increase of premiums of ongoing "full" tariffs by private health insurers. This increase will be valid, even if in a first step the information on the reasons – sent to the policyholders – were not entirely correct or complete. If the insurer "remedies" this incomplete or wrong information, the increase may be applied "ex nunc" (from now on), but not "ex tunc" (a posteriori).</p> <p>In order to understand the dimension, it must be noticed that in Germany in 2019 there were more than 8.7 million contracts with "full" private health insurances, i.e. that these policyholders are not part of the public health sector. This judgement by the FCJ seems to be justified, because it prevents from too strong sudden increase of premiums taken into consideration the constant general increase of health costs.</p>
Travel insurance	<p>Better Finance, Germany:</p> <p>An independent research on travel insurances (by <i>Stiftung Warentest: Finanztest, Mai 2021</i> – monthly publication) stressed that with regard to illness due to the corona pandemic terms and conditions of health travel insurances still strongly differ. Very good tariffs offer coverage up to 42 days, in one case even 70 days. But when getting ill due to the pandemic during the travel, a treatment may last much longer. Only some insurers include a clause that the</p>

	coverage will continue as long as the travel back home will be possible. So policyholders have to examine very precisely the terms and conditions of their contract, but anyway they will have to pay the bills in the host country first before any indemnity at home.
Mobile phone and other gadget Insurance	<p>Better Finance (Germany):</p> <p>Advertisement of risk coverage for smartphones is often misleading. Only in the "small-print" of the terms and conditions of the contract customers will find the exact details on self-retention, inclusion of theft, additional equipment, etc. That is why the <i>German Association of Insured (BdV)</i> has published a special brochure with warnings and explanations on its website:</p> <p>https://www.bunddersicherten.de/files/broschuere/pdf/de/191119-bdv-handyratgeber-rz-ansicht.pdf</p>
Other non-life (please explain)	
Other, including non-product related issues	<p>Better Finance (Germany):</p> <p>The NCA (BaFin) clearly stressed at several occasions (Annual Conference of 21 April 2021 and presentation of Annual Report on 18 May 2021) that it will keep on analysing distribution practices of life-insurers with regard to sales incentives and possible consumer detriment. These researched are based on article 8 of EU/2017/2359 ("Assessment of inducements and inducement schemes" for IBIPs) and the national supervisory law (§ 48a VAG). Results shall be published in Q4 2021.</p> <p>Sources: BaFin-Journal, Mai 2021, S. 37; VersicherungsJournal vom 19. Mai 2021.</p>

Focus topics

Price optimisation

Better Finance (Germany):

The German NCA (BaFin) published in its monthly Journal in January 2021 the results of its research on possible discrimination of elderly car drivers by overly high premiums (liability and hull motor insurance). The result was that, by taking into

consideration only the tariff criteria of age, elderly car drivers pay more. But nevertheless this result does not constitute any discrimination because two reasons. First premium increases must be based on statistical evidence, what was and is the case. Secondly many elderly car drivers profit from other criteria reducing the premium (e.g. no accidents for many years, less kilometres driven each year). In consequence taken into consideration the total amount of annual motor premiums even car drivers aged over 82 years pay about half of premiums than very young car drivers (from the age of 18 on). Car drivers aged from 63-67 pay less premiums than all other car drivers following to age cohorts.

Source: BaFin-Journal, Januar 2021, S. 22-25.

Better Finance (Germany):

On the one hand it seems to be possible that Big Data delivers more precise results than ever in order to identify target markets and to assign a customer to a target market ("usage-based insurances"). Telematics-based motor insurances especially for beginners may sanction the risk-averse way of driving by a decrease of premiums and on the contrary a very risky way of driving by an increase of premiums. In the same way people with disability and risk life insurances based on fitness trackers may benefit from premium reductions (or home owners who implement smart house solutions against burglary, water or fire damages etc.).

But we are afraid that these cases will be exceptional examples. If the segmentation and even individualization of customers and tariffs are overdone, this is contradictory to the principles of insurance itself. The basis of insurance is the law of the large numbers. Only if the collective basis for a tariff cohort is large enough, any kind of calculation of probability is valid enough (and based on that any kind of calculation of premiums). We definitely foresee the danger that Big Data will mostly be used either as marketing-gag or as a means in order to detect and exclude possible high-risk customers via the data which are collected by the distributors (cf. BdV comments on EIOPA Big Data thematic review - Consumer Associations Survey, 14 September 2018).

Claim management

Better Finance (Germany):

Following to Insurance Ombudsman in Berlin and his latest Annual Report on 2020, published in May 2021, there was a low general increase of complaints (1,8% up to 13.235 admissible complaints), but these figures are still less than in 2017 with nearly 15.000 complaints. The most important classes were legal expenses and life-insurance, and of course there was strong increase in travel insurances (up to 80%),

but from a very low base in the year before. The complaint management itself was not affected by the sudden necessity of “digitalizing” the entire working procedures.

Sources: VersicherungsJournal vom 21. Mai 2021

Website of Versicherungsombudsmann:

<https://www.versicherungsombudsmann.de/downloads/>

Preventative vs Protective insurance

Better Finance (Germany):

A lot of advertisement is made for additional insurances of electronic devices and “smart homes”. But even commercial comparison websites insist on the necessity to examine in depth the actual risk coverage being offered, because differences are huge.

Source: <https://www.franke-bornberg.de/blog/elektronikversicherung-smart-home-hausrat-versicherung>

In consequence from consumer’s perspective the necessity that intermediaries fully respect the pre-contractual information duties following to article 20 (1) and (3) IDD with regard to the “personal recommendation” for the customer is all the more urgent.